BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION **OF THE** **HANFORD ENERGY PARK PEAKER PROJECT** **BY GWF POWER SYSTEMS**	**DOCKET NO. 01-EP-7** **APPLICATION COMPLETED** **APRIL 12, 200** **AMENDED APRIL 26, 2001**

PROPOSED DECISION

The Hanford Energy Park Peaker Project proposed by GWF Power Systems has been the subject of a Committee hearing and subsequent analysis by the Energy Commission staff. The proposal meets Energy Commission criteria developed to implement the Governor's Executive Orders expediting the permit process for peaking and renewable energy generating plants. This Proposed Decision has been completed in an expedited timeframe as called out in the Executive Orders and is submitted for approval by the full Commission. As the Presiding Commissioner assigned to review this proposal, I hereby recommend certification of the project under the limitations presented as conditions contained in this Proposed Decision and the Staff Assessment incorporated herein by reference.

Executive Orders

On January 17, 2001, the Governor proclaimed a State of Emergency due to constraints on electricity supplies in California. As a result, the Governor issued Executive Orders D-22-01, D-24-01, D-25-01, D-26-01, and D-28-01 to expedite the permitting of peaking and renewable power plants that can be on line by September 30, 2001, and provide power to California. Emergency projects are exempt from the California Environmental Quality Act pursuant to Public Resources Code section 21080(b)(4). Since the Governor has declared a state of emergency, the Energy Commission may authorize the construction and use of generating facilities under terms and conditions designed to protect the public interest. (Public Resources Code section 25705.)

Project Description and Procedural History

Applicant GWF Power Systems[1] ("Applicant" or "GWF") proposes to construct a 95 megawatt (MW) natural-gas fired simple-cycle peaking facility consisting of two General Electric LM6000 PC Sprint turbine generators and associated facilities at their existing cogeneration plant in Kings Industrial Park on the southern border of Hanford, California.

On April 9, 2001, GWF filed an emergency permitting application for the Hanford Energy Park Peaker Project ("HEPP" or "the project" or "the peaker project"). The application proposed to construct the peaker project on 5 acres of the 10-acre parcel owned by GWF in Kings Industrial Park. GWF proposed to locate the peaker plant immediately west of the planned Hanford Energy Park Project (HEP) which was granted a Small Power Plant Exemption[2] by the Commission on April 11, 2001. The original application identified that the peaker project would utilize the natural gas and electrical interconnections approved by the Energy Commission for the HEP project. The original application was deemed complete on April 12, 2001.

In the course of licensing the HEP project GWF was informed by PG&E that its existing transmission facilities do not have sufficient capacity to permit operation of both the HEP and the peaker project. GWF was faced with choosing between the HEP, due on-line in the third quarter of 2002, and the HEPP that could be on-line in the summer of 2001. To promptly provide needed power supplies GWF elected to proceed with the peaker plant. On April 26, 2001, GWF filed an amendment making minor changes to its April 6, 2001, HEPP application.

[1] GWF Power Systems, Inc., is wholly owned by National Energy Partners, a partnership owned equally by Harbert Cogen, Inc., and PSEG Global USA. Since 1989 GWF has constructed, owned, and operated six California small power plant/cogeneration facilities with a combined generating capacity of 125 megawatts (MW). Five of the plants are in Contra Costa County; the sixth is in Kings Industrial Park, Hanford, California.

[2] Docket 00-SPPE-01.

In the April 26, 2001, amendment GWF identified that the HEPP would be located at the site layout originally designated for the HEP and that the natural gas and electric interconnections approved for the HEP would be part of the peaker plant. As part of their amendment GWF agreed to incorporate in the HEPP all applicable mitigation measures adopted by the Commission in its Decision on the HEP project. The appropriate Conditions of Certification implementing such mitigation measures are included in the Staff Assessment filed May 10, 2001.

As amended, the project proposes to construct a 95 megawatt (MW) natural-gas fired simple-cycle peaking facility consisting of two General Electric LM6000 PC Sprint turbine generators and associated facilities at GWF's Kings Industrial Park property. Associated facilities to be constructed as part of HEPP include approximately 1.2 miles of double-circuit, 115-kilovolt (kV) transmission line to transmit electricity generated to the transmission grid via an existing PG&E transmission line, and approximately 2.8 miles of 16-inch natural gas pipeline.

On April 26, 2001, the hearing officer requested that GWF's amendment be reviewed to determine if the changes were sufficiently material that another 21-day review process would be required. On April 27, 2001, Commission Staff Counsel Jeff Ogata issued an opinion[3] that relocation of the peaker plant to a site previously approved by the Commission under the SPPE process is not a material change that would require a full 21-day review. Mr. Ogata noted that in its amendment GWF agreed to abide by the conditions placed on the HEP.

An amended Notice of Hearing was published identifying that the Energy Commission's consideration of the Proposed Decision would occur at its meeting on May 10, 2001.

The HEPP is expected to begin commercial operation by September 1, 2001, and to typically operate 16 hours per day, six days per week, from May through October when the demand for electricity is high. The project may operate 24 hours per day, seven

[3] Exhibit 6: April 27, 2001, opinion by Mr. Ogata, docketed May 1, 2001.

days per week, depending on the dispatch requirements of the California Independent System Operator. During 2001 the HEPP is expected to operate for 2,000 hours. From 2002-2011 the project is expected to operate 4,000 hours per year. The project will sell a portion of its generation under contract to the California Department of Water Resources ("DWR"). GWF has a Memorandum of Understanding with DWR and is negotiating the subject contract. GWF advises that it expects the contract to be completed by May 11, 2001[4]. GWF expects to cease operation of the HEPP in 2011.

In order to qualify for the Energy Commission's expedited review, the project must begin commercial operation by September 30, 2001. Project construction will take approximately three months to complete and will begin approximately May 15, 2001, upon Commission approval of the application and receipt of an Authority to Construct permit from the San Joaquin Valley Unified Air Pollution Control District ("Air District").

Public Hearing

On April 20, 2001, Arthur Rosenfeld, the Commissioner designated to conduct proceedings on this proposal, held a public site visit and informational hearing in Hanford to discuss the project with governmental agencies, community organizations, and members of the public. At the hearing, the Applicant described the project and Energy Commission staff explained the Energy Commission's expedited review process. Local residents and other members of the public made comments and had the opportunity to ask questions about the project.

Acting City Manager Jan Reynolds, and John Stowe and Jim Kochar of the Community Development Department represented the City of Hanford at the hearing. Annee Ferranti, an Environmental Specialist with the California Environmental Protection Agency, attended. Representatives of the local press were present. Members of the community had comments and questions regarding the project. See **Public Comment** section.

[4] Exhibit 9: GWF's May 7, 2001, email response to hearing officer's email questions of the same date, docketed May 7, 2001.

Issues of Concern

The Energy Commission Staff Assessment was received into the record on May 5, 2001. The concerns of the City of Hanford identified in the April 23, 2001, letter[5] of Associate Planner John Stowe, Community Development Department, were addressed in the Staff Assessment. The following issues were identified at the hearing and during the review and consideration period that followed.

Natural Gas Supply

Both LM6000 PC Sprint turbine generators will be designed to burn natural gas. Maximum natural gas requirements are approximately 450 million British thermal units per hour (MMBtu/hr) higher heating value (HHV) for each unit. Natural gas for the HEPP will be delivered by a new 2.8-mile 16-inch gas pipeline that will be constructed as part of the project and operated by Southern California Gas Company (SoCal Gas). The new pipeline will be interconnected to the SoCal Gas line 503 at Eleventh Avenue and Harford-Armona Road. The natural gas fuel requirements and pipeline interconnections have been reviewed by SoCal Gas. See Staff Assessment p. 2 and Amended Application sections ES.3.5 and Project Description 1.13 and 1.14.

SoCal Gas has assured GWF that adequate gas transmission capacity exists on their system to supply the fuel for proposed HEPP. GWF advises that because its existing cogeneration plant is a solid-fuel fired facility which uses petroleum coke there will be no conflicts over fuel supply capacity between the proposed HEPP and the cogeneration plant. See Exhibit 9: GWF's May 7, 2001, email response to hearing officer's email questions of the same date.

Air Quality

During the first year of operation the HEPP will operate with an emission rate of 25 ppm NOx. By February 1, 2002, GWF will retrofit the HEPP with Selective Catalytic

[5] Exhibit 7: April 23, 2001, letter by Mr. Stowe.

Reduction (SCR) and oxidation catalyst to reduce NOx emissions to 3.7 ppm. The SCR unit will utilize aqueous ammonia from the existing ammonia storage facility associated with the cogeneration plant. The HEPP will trigger offset requirements for NO_x, VOC, SO_2 and PM_{10} emissions. In addition to the emission offsets required by regulation, GWF will voluntarily provide emission reduction credits (ERCs) to offset expected CO emissions. GWF has purchased credits necessary to satisfy the applicable emission offset requirements. See Staff Assessment pp. 2 and 10, Amended Application section ES.6.1, and Exhibit 5: GWF's April 23, 2001, response to hearing officer's questions.

The analysis of the air quality impacts of emergency permit applications is performed by the California Air Resources Board and the local air pollution control district. Staff has proposed Conditions of Certification which require GWF to limit fugitive dust emissions during construction (Condition AQ-1), to comply with the Authority to Construct (ATC) issued by the San Joaquin Valley Unified Air Pollution Control District (Condition AQ-2), and to operate in compliance with all Best Available Control Technology (BACT) standards imposed by the Air District (Condition AQ-3). See Staff Assessment pp. 6 and 39-40.

Biological Resources

The HEPP will be located on previously disturbed vacant land in an industrial park surrounded by heavy industry and intensively-managed agriculture. The transmission line and natural gas line will parallel existing paved roads and traverse residential, industrial, and agricultural areas.

Three sensitive plant and fourteen sensitive wildlife species occur within the vicinity of the project (California Natural Diversity Database (CNDD) query April 2001, GWF's HEP application). During surveys conducted June 1999 and February 2000[6], none of

[6] The surveys were conducted primarily for federal and state listed plant and animal species in accordance with the U.S. Fish and Wildlife Service and California Department of Fish and Game approved methodologies. The surveys included GWF's ten-acre site surrounded by a 500-foot primary buffer area and a one-mile secondary buffer area. At the Energy Commission's suggestion, transmission lines were surveyed as 100-foot corridors centered on the transmission line with a primary buffer zone

these sensitive species were found on-site. See Staff Assessment pp. 6-8, and Amended Application sections ES.6.2 and Biological Resources 8.0, 8.1, 8.2 and 8.4 for this and the following two paragraphs.

The HEPP is located within the range of several listed species many of which (e.g., the San Joaquin kit fox, Tipton kanagroo rat, and Fresno kanagroo rat) use fallow fields in areas such as Kings County where little natural habitat remains. The San Joaquin kit fox and the burrowing owl may move into such marginal areas. The area represents potential habitat for the listed species and the HEPP would result in both permanent and temporary loss of habitat. Two potential raptor nests were located within 500 feet of the transmission line, and CNDD reports two occurrences of Swainson's Hawks in the surrounding area in July of 2000. The facilities associated with the HEPP provide several potential nesting sites and fields which would support rodent prey.

GWF's Amended Application notes that biological surveys will need to be undertaken before the start of transmission line construction. If San Joaquin kit foxes, burrowing owls, or nesting raptors are found in or near the corridors additional mitigation measures may be necessary to comply with relevant laws and regulations. The Staff Assessment addresses the concern for biological resources through pre-construction surveys along the electrical transmission route, with further required mitigation if sensitive species are found in the area, as provided in Conditions of Certification BIO-1, BIO-2, BIO-3, BIO-5, and BIO-7 through BIO-12.

Pursuant to the Commission's HEP conditions, which are incorporated by GWF in its Amended Application, mitigation of lost habitat will be achieved by providing compensatory habitat at final compensation ratios to be determined through consultation with the U.S. Fish and Wildlife Service. GWF will provide funds to the Kern Water Mitigation Bank for purchase of habitat credits under its existing master endangered species permit. Mitigation credits are estimated at about $2,375 per acre,

---

500-feet on either side of the corridor and a secondary buffer zone an additional 500-feet on either side of that corridor. See Staff Assessment pp. 6-8 and 40-44, and Amended Application sections ES.6.2 and

including endowment costs, plus a $5,000 transaction fee. The U.S. Fish and Wildlife Service is currently reviewing this proposal, and Condition BIO-12 of the Staff Assessment requires that such mitigation be obtained. See Staff Assessment p. 7 and Amended Application sections ES.6.2 and Biological Resources 8.4.

The Staff Assessment includes Standard Conditions of Certification BIO-1 through BIO-6. In addition, Conditions BIO-7 and BIO-8 address any species that have relocated into the area since the February 2000 survey. GWF incorporated in its Amended Application all applicable mitigation measures adopted by the Commission for the HEP, which are included as Conditions of Certification BIO-9 through BIO-12. The Conditions of Certification proposed in the Staff Assessment provide appropriate mitigation measures for the affected biological resources. See Staff Assessment pp. 40-44.

Water Supply and Consumption; Wastewater

Currently GWF's cogeneration plant obtains groundwater from a well on its ten-acre site. The well will also provide water to the HEPP for evaporative cooling and for water injection in the LM6000 PC Sprint turbine generators (CTGs) to control NO_x emissions and for power augmentation. During normal operations HEPP will consume 140 gallons per minute (gpm) of water, or about 103 acre-feet annually. Backup service water is available from the existing City of Hanford connection to GWF's cogeneration plant, and fire protection water will be provided by the City of Hanford through an existing connection. The Conditions of Certification proposed in the Staff Assessment provide appropriate mitigation measures for water and wastewater concerns. See Staff Assessment pp. 8 and 49-52, and Amended Application sections ES.3.6 and ES.3.8 and Soils and Water Resources 12.1 for this and the following two paragraphs.

GWF obtained a water banking agreement with the Kings County Water District to purchase surface water for aquifer recharge at a rate of 1:1 acre-foot ratio of groundwater used by its facilities to water banking credit. As part of its HEP application

---

Biological Resources 8.0 and 8.1.

GWF established a water purchase agreement with the Angiola Water District at a ratio of 1.76:1 for drought protection. The Staff Assessment includes Condition of Certification HYDROLOGY & WATER-4 to ensure that all water banking and water purchase agreements are in place and that adequate aquifer recharge is accomplished. The related Condition of Certification HYDROLOGY & WATER-5 addresses required groundwater pumping records.

HEPP plant and equipment drains will be collected, passed through an oil and water separator, and routed to the cooling tower basin at the cogeneration plant. The existing wastewater discharge and sewer connection to the City of Hanford sewage treatment plant has sufficient capacity to accommodate the discharge from the HEPP. Maximum wastewater discharges from the HEPP are estimated at 20 gpm during normal operations. GWF's Industrial Wastewater Discharge Permit with the City of Hanford will be modified to include any additional wastewater discharge exceeding the current limits. The Staff Assessment includes Conditions of Certification HYDROLOGY & WATER-3 which requires submission of a valid water service agreement prior to site mobilization, and HYDROLOGY & WATER-6 which requires submission of a final Industrial Discharge Permit.

Soil

Both construction and operation phases of the proposed project present the potential for erosion and sedimentation through ground disturbance and runoff. GWF proposed detailed erosion prevention and sediment control measures including grading, compacting, and seeding/mulching exposed soils. The City of Hanford requested dust control measures, including watering and the application of petroleum-based palliatives. The Environmental Protection Agency (EPA) considers petroleum-based palliatives to be a potential stormwater and soil contaminant. Condition of Certification SOIL & WATER-7 will ensure compliance with the City's request while meeting EPA recommended best management practices for stormwater pollution protection. Standard Conditions of Certification SOIL & WATER-1 through 4 ensure that necessary erosion and stormwater plans are finalized. In addition, Conditions of Certification SOIL

& WATER-5 and 6 require that sediment control measures not impact the area biologically. The conditions proposed in the Staff Assessment provide appropriate mitigation measures for the soil and water issues. See Staff Assessment pp. 9 and 49-50 and Amended Application sections ES.6.0 and Soils and Water Resources section 12.3.

Land Use

GWF's 10-acre Hanford Energy Park currently contains the existing cogeneration facility but is otherwise unimproved. The HEPP would be located east of the existing plant, with the northern portion of the site used for equipment storage and parking during construction. The project site is within the 1,000-acre Kings Industrial Park at the southern edge of Hanford, and is designated Heavy Industrial (HI) by the General Plan Land Use Element. That designation and the Zoning Code allow for utility operations, such as the HEPP. The partly developed properties north of the site are within the City and Kings Industrial Park. Properties to the west and east of the project site are within Kings County and are designated for agricultural uses by the General Plan; properties to the south of the HEPP are zoned for Heavy Industrial uses by the County. The HEPP would be consistent with the surrounding existing land uses, as the area is devoted to industrial and agricultural purposes. See Staff Assessment p. 13 and Amended Application sections ES.6.4, Site Description 2.0 through 2.9, and Land Use 9.1 and 9.2.

The City of Hanford recommended that several requirements pertaining to land use be incorporated in the Commission Decision. The City proposes that the project comply with its ordinances, Public Works standards and permits, Kings County Industrial Park Performance Standards, and any other applicable regulation; that all approved proposals be conditions of development; that no expansions or modifications shall be permitted without proper application and approval procedures; that GWF pay all applicable fees; that HEPP conform to the most recent versions of the Uniform Building Code and Uniform Fire Code; that preliminary and final soil reports be submitted; and

that the site be made accessible and usable by the handicapped according to state regulations. The Standard Land Use Conditions of Certification in the Staff Assessment adequately address the City's concerns. See Staff Assessment pp. 13-15 and Exhibit 7, the City of Hanford's April 23, 2001 letter.

The City of Hanford also recommended that terms requiring local gas, electric and telephone companies be contacted regarding the exact location of their services, and that GWF be responsible for any alterations or relocation of utilities, be incorporated into the Commission Decision. Condition of Certification LAND-3 was added to resolve the City's concern regarding contacting local gas, electric and telephone companies. See Staff Assessment pp. 13-15 and Exhibit 7, the City of Hanford's April 23, 2001 letter.

The City of Hanford also recommended that the Commission Decision require that GWF submit an occupancy application and various specified plans and provide an independent inspector to perform all federal, state and local building inspections, and that noncompliance with the municipal code shall constitute cause for revocation and/or termination of approvals. The Staff Assessment notes that the Energy Commission has authority for permitting and monitoring construction and operation of power plants and related facilities. Proper implementation and monitoring of all conditions of approval is the responsibility of the assigned Energy Commission compliance project manager, who makes every effort to coordinate with local jurisdictions regarding construction and operation of power plants. Standard Conditions of Certification LAND-1 and LAND-2 ensure that the HEPP will be in compliance with all applicable laws, ordinances, regulations, and standards (LORS). See Staff Assessment pp. 13-15 and Exhibit 7, the City of Hanford's April 23, 2001 letter.

The City of Hanford also recommended that the Commission Decision provide that GWF hold the City and all of its departments, officers, agent and employees free and harmless of and from all claims of any kind or nature arising out of or by reason of the approval of the project; that GWF be encouraged to fill job openings from local sources; and that unless an extension is granted the application shall lapse and become void one

year following the approval date unless a building permit is extended and construction has commenced. The Staff Assessment notes that the listed factors are not applicable to the emergency permitting process. The Standard Land Use Conditions of Certification in the Staff Assessment respond to the City's concerns. See Staff Assessment pp. 13-15 and Exhibit 7, the City of Hanford's April 23, 2001 letter.

Hazardous Materials

Plans and programs for hazard assessment, emergency response, and process management systems are in place for GWF's existing cogeneration plant. GWF plans to expand current programs to include the HEPP, which will use aqueous ammonia and natural gas. Aqueous ammonia will be used for control of NOx emissions and will be held in the existing ammonia storage tank in the cogeneration plant. The use of aqueous ammonia reduces to insignificant levels any potential for adverse impacts at the nearest residences, which are more than 0.5 miles from the HEPP. Conditions of Certification HAZ-1 and HAZ-2 ensure that GWF will not use any hazardous material in reportable quantifies except those identified in the application as amended. See Staff Assessment pp. 10 and 45, Application Hazardous Materials sections 7.1 and 7.2, and Amended Application section ES.6.12.

Natural gas will not be stored at the HEPP but will be handled in significant quantities in compliance with all applicable engineering design codes and fire protection codes. The Staff Assessment concludes that compliance with such standards will reduce to insignificant levels the potential for adverse impacts on the public as a result of natural gas handling at the proposed facility. See Staff Assessment p. 10.

Noise

GWF conducted an ambient noise survey, evaluation, and modeling to assess the expected construction and operation noise levels. The project will provide acoustical enclosure for the combustion turbine inlet air silencers and exhaust silencers. The HEPP will generate less noise than the HEP project approved by the Commission on

April 11, 2001, and will result in a minor increase in area noise levels. Ambient noise levels at the closest sensitive receptor, a residence approximately 3,200 feet east of the facility, are 54 dBA (25 hour Leq) and 48 dBA (25 Hour L_{90}). Estimated noise increases at that residence due to the project would be 44dBA Leq and would not be perceptible. Estimated composite noise levels at the HEPP property line would be in compliance with the Kings Industrial Park noise standard of 70 dBA at the property line. See Staff Assessment pp. 12-13 and 46-49, HEP Application section 8.5 included in Amended Application as Exhibit 6A, and Amended Application sections ES.6.5 and Noise 6.0 through 6.4.

As Applicant noted at the April 20, 2001, public hearing (See **Public Comment** section) GWF will perform an additional ambient noise survey following commencement of operations to ascertain if the HEPP conforms to applicable City, County, and Kings Industrial Park standards. Standard Noise Condition of Certification NOISE-1 requires that GWF conduct a community noise survey utilizing the same monitoring sites employed in the pre-project survey, and if the results indicate noise levels at the closest sensitive receptor are in excess of 50 dBA between 10 p.m. and 7 a.m. additional mitigation measures will be required. See Staff Assessment p. 46, Amended Application sections Noise 6.0 through 6.4, and Transcript of Public Hearing pp. 29-31.

The City of Hanford recommended that the Commission Decision require that HEPP noise levels meet the Kings Industrial Park noise standards and any revisions thereof, and that noise levels be measured at the nearest sensitive receiver and the HEPP property line after the facility is in operation to assess compliance with City noise level standards. The Standard Noise Conditions of Certification NOISE-1 through NOISE-4 address the City's concerns, and ensure that project noise impacts are reduced to insignificant levels. See Staff Assessment pp. 12-13 and 46-49 and Exhibit 7, the City of Hanford's April 23, 2001 letter.

Public Comment

Les Collins, a former City Planning Commissioner and local business owner, provided a written comment at hearing that he strongly supported the project and that GWF's existing cogeneration plant is a good neighbor.

Resident Elizabeth Clark asked why the project would not run "night and day" in light of the electricity shortage. Applicant responded that the project might operate 24 hours per day seven days per week if needed. Mrs. Clark also asked about cumulative noise from the present plant and two proposed plants[7]. Applicant observed that it used modeling to predict noise impact on residential receptors, and after the HEPP is in operation another noise survey will be conducted to confirm that noise does not exceed permissible levels. If it does, GWF will be responsible for additional noise mitigation. Mrs. Clark also inquired why the California Environmental Quality Act ("CEQA") does not apply to emergency projects. Staff and Applicant provided information regarding the Governor's Executive Orders, which exempt emergency projects from CEQA.

The Hearing Officer requested clarification of the current status of Applicant's negotiations with the Department of Water Resources, the date the HEPP would be retrofitted with a Selective Catalytic Reduction and oxidation catalyst, and the water sources to be used by the project[8]. Applicant responded at the public hearing, and provided further information in its email letter of April 23, 2001[9].

Staff Assessment

On May 5, 2001, Energy Commission staff issued its Staff Assessment, which is attached hereto and incorporated herein by reference. Staff conducted a "fatal flaw" analysis and found no areas of major concern related to the project.

All conditions contained in the Staff Assessment are hereby adopted as the Conditions of Certification for GWF Power Systems' Hanford Energy Park Peaker Project.

[7] Note that subsequent to the public hearing GWF submitted an April 26, 2001, amendment to the HEPP application. The amendment provides that the HEP approved by the Energy Commission on April 11, 2001, will not be built due to electric transmission constraints.
[8] Exhibit 4: Hearing officer's written questions provided to applicant and staff at the public hearing, docketed April 24, 2001.
[9] Exhibit 5: Applicant's April 23, 2001, response to the hearing officer's written questions, docketed April 24, 2001.

Authority to Construct Permit

Analysis of the air quality impacts of emergency permit applications is performed by the California Air Resources Board and the local air pollution district, the San Joaquin Valley Unified Air Pollution Control District ("the Air District"). GWF filed an application for an Authority to Construct permit with the Air District on April 9, 2001, and it was deemed complete on April 12, 2001. See Staff Assessment p. 6 and the Air District's proposed ACT (Appendix A).

The ATC permit is a requirement of the U.S. Environmental Protection Agency (USEPA). The application is subject to a 30-day notice and public review and comment period, which began on April 11, 2001. The ATC permit will become effective on the date designated by the Air District, including any modifications approved following the comment period. All conditions and any modifications thereto contained in the ATC permit shall be incorporated herein by reference on the effective date of the ATC permit.

TERMS OF CERTIFICATION, PERMIT VERIFICATION, AND AMENDMENT

The HEPP is a simple-cycle project that will operate during periods of high demand. Applicant requests certification for the life of the project. Construction will begin upon certification by the Energy Commission and issuance of the Authority to Construct permit by the San Joaquin Valley Unified Air Pollution Control District. Project construction will take approximately three months. The HEPP is expected to begin commercial operation September 1, 2001.

The project shall be certified for the length of GWF's power purchase agreement with the Calfornia Department of Water Resources. If, at the end of its power purchase agreement with DWR, the project owner can verify that the project complies with the following continuation conditions the Energy Commission shall extend the certification:

Permit Verification: At least six months prior to the expiration of its power purchase agreement with the DWR, the project owner shall provide verification that the project will meet the following criteria in order to continue the permit through the life of the project:

1. The project is permanent, rather than temporary or mobile in nature.

2. The project owner demonstrates site control.

3. The project owner has secured permanent Emission Reduction Credits ("ERCs") approved by the San Joaquin Valley Unified Air Pollution Control District ("Air District") and the California Air Resources Control Board ("CARB"). The ERCs must be adequate to fully offset project emissions for its projected run hours and must have been in place prior to the expiration of the temporary ERCs obtained from CARB if temporary ERCs were used for the initial operation of the project.

4. The project is in current compliance with all Energy Commission permit conditions specified in this Decision.

5. The project is in current compliance with all conditions contained in the ATC permit from the Air District.

6. The project meets all Best Available Control Technology ("BACT") requirements under Air District rules, as established in the ATC permit, and all CARB requirements.

The certification shall expire if the project cannot meet the continuation criteria.

FINDINGS AND CONCLUSIONS

1. There is an energy supply emergency in California.

2. All reasonable conservation, allocation, and service restriction measures may not alleviate the energy supply emergency.

3. Public Resource Code section 21080(b)(4) exempts emergency projects from the requirements of the California Environmental Quality Act.

4. Executive Order D-28-01 states that "[a]ll proposals processed pursuant to Public Resources Code section 25705 and Executive Order D-26-01 or this order [D-28-01] shall be considered emergency projects under Public Resources Code section 21080(b)(4)."

5. The Hanford Energy Park Peaker Project is a simple-cycle facility that will operate during periods of high demand.

6. The Application for Certification for the Hanford Energy Park Peaker Project has been processed pursuant to Public Resource Code section 25705 and Executive Orders D-26-01 and D-28-01.

7. Pursuant to the Executive Orders cited above, the Hanford Energy Park Peaker Project must be on line no later than September 30, 2001, in order to help reduce blackouts and other adverse consequences of the energy supply emergency in the state.

8. In order for the Hanford Energy Park Peaker Project to be on line by no later than September 30, 2001, it is necessary to substantially reduce the time available to analyze the project.

9. To the greatest extent feasible under the circumstances, the terms and conditions specified in this Decision (1) provide for construction and operation that does not threaten the public health and safety, (2) provide for reliable operation, and (3) reduce and eliminate significant adverse environmental impacts.

Recommendation

Having heard the presentations and reviewed the record in this proceeding, I believe that, with the mitigation identified in (1) the Application as amended, (2) the Conditions of Certification identified in the Staff Assessment, (3) the Authority to Construct permit, and (4) as otherwise described in the record, the proposed facility will be designed, sited, and operated in a safe and reliable manner to protect the public interest. Therefore, I recommend that the Energy Commission adopt this Proposed Decision and certify the Hanford Energy Park Peaker Project as described in this proceeding.

Monitoring Conditions

The project owner shall comply with the following monitoring conditions in addition to the Permit Verification process contained in this Decision and in addition to the General Compliance Conditions delineated in the Staff Assessment and incorporated herein by reference:

Start of Operations: The Hanford Energy Park Peaker Project shall be on line by ***no later*** than September 30, 2001. If the Hanford Energy Park Peaker Project is not operational by September 30, 2001, the Energy Commission will conduct a hearing to determine the cause of the delay and consider what sanctions, if any, are appropriate. If the Energy Commission finds that the project owner failed to proceed with due diligence to have the Hanford Energy Park Peaker Project in operation by September 30, 2001, the Applicant shall forfeit its certification.

BACT Standards: Operation of the Hanford Energy Park Peaker Project shall be in compliance with all Best Available Control Technology (BACT) standards imposed by the San Joaquin Valley Unified Air Pollution Control District in its Authority to Construct permit. Failure to meet these standards will result in a finding that the Hanford Energy Park Peaker Project is out of compliance with the certification.

Three-Year Review: No later than 15 days after completion of the first three years in operation, the owner of the Hanford Energy Park Peaker Project shall submit to the Energy Commission a report of operations that includes a review of the Project's compliance with the terms and conditions of certification, the number of hours in operation, and the demand for power from the facility during the three-year period.

Dated May 7, 2001, at Sacramento, California.

_____

ARTHUR ROSENFELD, Presiding Commissioner,
Emergency Siting Committee
GWF Power Systems Hanford Energy Park Peaker Project